



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-880]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Notice of Court Decision Not in Harmony with the Final Results in the Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 24, 2021, the U.S. Court of International Trade (CIT) sustained the Department of Commerce's (Commerce's) remand results pertaining to the first administrative review of the antidumping duty order on heavy walled rectangular welded carbon steel pipes and tubes (HWR) from the Republic of Korea (Korea) covering the period of review (POR) of March 1, 2016, through August 31, 2017. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's final results in the first administrative review of HWR from Korea. Consistent with the CIT's final judgment, Commerce is amending the weighted-average dumping margins calculated for Dong A-Steel Company (DOSCO) and Kukje Steel Co., Ltd. (Kukje Steel).

DATES: Applicable July 4, 2021.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, AD/CVD Operations Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4682.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2019, Commerce published its *Final Results* in the first administrative review of HWR from Korea.¹ As reflected in the *Final Results*, Commerce calculated a weighted-average dumping margin of 20.79 percent for DOSCO and 12.81 percent Kukje Steel, one of the companies receiving the review-specific average rate.²

DOSCO and Kukje Steel appealed Commerce's *Final Results* to the CIT. On September 29, 2020, the CIT remanded for Commerce to explain or reconsider its finding of a particular market situation (PMS) in the Korean market for the hot-rolled coil input and its application of a PMS adjustment to the respondents' cost of production (COP).³ On December 22, 2020, Commerce issued the First Remand Results, in which, under protest, it determined that there is no PMS that distorts the COP of HWR and recalculated the weighted-average dumping margin for DOSCO without the PMS adjustment to the COP for the sales-below-cost test.⁴ As a result, Commerce calculated a revised weighted-average dumping margin for DOSCO of 11.00 percent. Moreover, as a result of Commerce's recalculation of the weighted-average dumping margin for DOSCO, Commerce revised the review-specific average rate applied to Kukje Steel to 7.89 percent.

On June 24, 2021, the CIT sustained Commerce's Final Remand Results.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as

¹ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 24471 (May 28, 2019) (*Final Results*).

² *Id.* at 24472.

³ See *Dong-A Steel Company v. United States*, 475 F. Supp. 3d 1317 (CIT 2020) (*Remand Order*).

⁴ See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 19-00104, dated December 21, 2020 (Final Remand Results) at 1.

⁵ See *Dong-A Steel Company v. United States*, Slip Op. 21-79, Consol. Court No. 19-00104 (CIT 2021) (*DOSCO*).

⁶ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.⁸ The CIT’s June 24, 2021 judgment in this case constitutes a final decision of that court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results* with respect to the weighted-average dumping margins for DOSCO and Kukje Steel.⁹ The revised weighted-average dumping margins are as follows:

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Dong A-Steel Company	11.00
Kukje Steel Co., Ltd.	7.89

Cash Deposit Requirements

Because DOSCO and Kukje Steel have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

During the pendency of litigation, including any appeal, Commerce remains enjoined by Court order from liquidating entries: (1) produced and/or exported by Dong-A Steel Company or Kukje Steel Co., Ltd.; (2) the subject of the *Final Results*; (3) entered, or were withdrawn

⁸ See sections 516A(c) and (e) of the Act.

⁹ See section 735(c)(5)(A) of the Act; *see also Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016– 2017*, 83 FR 50892 (October 10, 2018), and accompanying Preliminary Decision Memorandum at 4 (explaining the method for determining the rate applied to companies not selected for individual examination), method unchanged in the *Final Results*; and Memorandum, “Calculation of the Review-Specific Average Rate for the Final Results of Redetermination,” dated December 21, 2020.

from warehouse, for consumption on or after March 1, 2016, up to and including August 27, 2016, and on or after September 12, 2016, up to and including August 31, 2017; and (4) remain unliquidated as of the date the Court issued the applicable statutory injunction. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event that the CIT's final judgment is not appealed or, if appealed, is upheld by a final and conclusive court decision, Commerce will instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by DOSCO and Kukje Steel, in accordance with 19 CFR 351.212(b) and the Final Remand Results. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,¹⁰ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by DOSCO or Kukje Steel for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹¹

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: June 25, 2021.

James Maeder,

Deputy Assistant Secretary

¹⁰ See 19 CFR 351.106(c)(2).

¹¹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-14048 Filed: 6/30/2021 8:45 am; Publication Date: 7/1/2021]